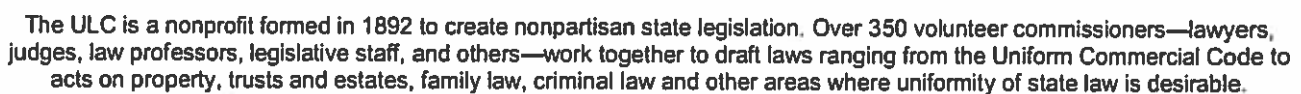




A Few Facts about THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT

ENACTED BY:





Uniform Law Commission

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WHY YOUR STATE SHOULD ADOPT THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT

The availability of government information online creates transparency and accountability, and provides widespread access to vital information. The Uniform Electronic Legal Material Act (UELMA) addresses the critical need to effectively provide and manage electronic government information in a manner that guarantees trustworthiness and continued access.

- The UELMA provides for authentication, preservation, and accessibility of official electronic state legal material. Adoption of UELMA will assist state governments in guaranteeing a free flow of trustworthy legal information.
- States can choose which categories of “legal material” will be covered by the Act. Flexible language and alternative provisions allow states to tailor the act to their needs.
- The UELMA requires official publishers to consider the most recent standards for preservation, authentication, and access to electronic legal material. The act recognizes that technology will continue to change and improve, and supports collaboration among jurisdictions in choosing and implementing new technologies.
- The UELMA does not affect any relationships between an official state publisher and a commercial publisher, leaving those relations to contract law. Copy right laws also remain unaffected. The act does not affect rules of evidence; judges will continue to be able to make decisions about the admissibility of electronic evidence in their courtrooms.
- The UELMA does not require specific technologies, leaving the choice of technology for authentication and preservation to the states. Giving states the flexibility to choose any technology that meets the required outcomes allows each state to choose the best and most cost-effective method for the state.
- Adoption of the UELMA will harmonize standards of acceptance of electronic legal material across jurisdictional boundaries. If the UELMA is enacted in one state, the presumption that authenticated electronic legal material is accurate applies to every other state that has enacted the UELMA.

For further information about the UELMA, please contact ULC Legislative Staff, Brian Lewis at (312) 450-6619 or blewis@uniformlaws.org; or Katie Robinson at (312) 450-6616 or krobinson@uniformlaws.org.



THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT

- A Summary -

Increasingly, state governments are publishing laws, statutes, agency rules, and court rules and decisions online. In some states, important state-level legal material is no longer published in books, but is only available online. While electronic publication of legal material has created public access to the material, it has also raised concerns. One concern is whether the legal material is official, authentic, government data, which has not been altered. An additional concern is how will electronic legal material be preserved? How will the public access the material ten, fifty, or even 100 years from now? The Uniform Electronic Legal Material Act (UELMA) provides states with an outcomes-based approach to the authentication and preservation of electronic legal material. The goals of the authentication and preservation program outlined in the act are to: enable end-users to verify the trustworthiness of the legal material they are using and provide a framework for states to preserve legal material in a way that allows for permanent access.

The UELMA requires that official electronic legal material be:

1. *Authenticated*, by providing a method to determine that it is unaltered;
2. *Preserved*, in either electronic or print form; and
3. *Accessible*, for use by the public on a permanent basis.

If electronic legal material is authenticated, it is presumed to be an accurate copy of the legal material. The UELMA creates the presumption that authenticated electronic legal material is accurate and that this applies in every other state that has enacted the UELMA. If one state enacts the UELMA, and authenticates its electronic legal material, its legal material is presumed to be an accurate copy for use in another state that has enacted the UELMA.

The UELMA requires that if a state preserves legal material electronically, it must provide for back-up and recovery, and ensure the trustworthiness and continuing usability of the material. In recognizing all of the years of experience that states have gained in the preservation of print material, the act places no special requirements on a state that chooses to preserve its legal material in print format.

State policy and preference allow each state to determine which categories of legal information will be included in UELMA's coverage. For each category of legal information, an official publisher is named. The act requires that the official publisher be responsible for executing the terms of the act, regardless of where or by whom the legal material is actually printed or distributed. The UELMA allows only a state agency, officer, or employee to be the official publisher, although state policy may allow a commercial entity to produce an official version of the state's legal material. The UELMA does not interfere with the contractual relationship between a state and a commercial publisher with which the state contracts for the production of its legal material.

Furthermore, the UELMA does not require specific technologies, leaving the choice of technology for authentication and preservation up to the states.

For further information about the UELMA, please contact ULC Legislative Staff, Brian Lewis at (312) 450-6619 or blewis@uniformlaws.org; or Katie Robinson (312) 450-6616 or krobinson@uniformlaws.org.

UNIFORM ELECTRONIC LEGAL MATERIAL ACT

Drafted by the

**NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS**

and by it

**APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES**

at its

**ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTIETH YEAR
VAIL, COLORADO
JULY 7 - JULY 13, 2011**

WITH PREFATORY NOTE AND COMMENTS

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By

**NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS**

October 4, 2011

ABOUT ULC

The Uniform Law Commission (ULC), also known as National Conference of Commissioners on Uniform State Laws (NCCUSL), now in its 120th year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- ULC strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- ULC statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- ULC keeps state law up-to-date by addressing important and timely legal issues.
- ULC's efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- ULC's work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- Uniform Law Commissioners donate thousands of hours of their time and legal and drafting expertise every year as a public service, and receive no salary or compensation for their work.
- ULC's deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws.

ULC is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

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UNIFORM ELECTRONIC LEGAL MATERIAL ACT

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UNIFORM ELECTRONIC LEGAL MATERIAL ACT

Prefatory Note

Introduction. Providing information online is integral to the conduct of state government in the 21st century. The ease and speed with which information can be created, updated, and distributed electronically, especially in contrast to the time required for the production of print materials, enables governments to meet their obligations to provide legal information to the public in a timely and cost-effective manner. State governments have moved rapidly to the online distribution of legal information, in some instances designating a publication in electronic format to be an official publication. Some state governments are eliminating certain print publications altogether. The availability of government information online facilitates transparency and accountability, provides widespread access, and encourages citizen participation in the democratic process.

Changing to an electronic environment also raises new issues in information management. Electronic legal information moves from its originating computer through a series of other computers or servers until it eventually reaches the individual user. The information is susceptible to being altered, whether accidentally or maliciously, at each point where it is stored, transferred, or accessed. Any such alterations can be virtually undetectable by the consumer. A major issue raised by the change to an electronic format, therefore, is whether the information presented to consumers is trustworthy, or authentic.

“An *authentic* text is one whose content has been verified by a government entity to be complete and unaltered when compared to the version approved or published by the content originator.” (American Association of Law Libraries, STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES 8 (2007)). In the context of this act, the content originator is the official publisher. When a document is authentic, it means that the version of the legal resource presented to the user is the same as that published by the official publisher. Authentication provides an electronic method to establish the integrity of the document, demonstrating that the information has not been tampered with or altered during the transfer between the official publisher and the end-user. Few state governments have taken the actions necessary to ensure that the electronic legal information they create and distribute remains unaltered and is, therefore, trustworthy or authentic.

Authenticity is a much larger concern in the electronic age than in the print age, where legal information typically exists in multiple copies. The content of a print work is “fixed” once printed, making the text easily verifiable and changes readily detectable. Many years of experience allow us to determine when we can trust the integrity of a printed document. It stands to reason, therefore, that before state governments can transition fully into the electronic legal information environment they must develop procedures to ensure the trustworthiness of their electronic legal information.

The ease with which electronic legal information is created and changed raises a second critical consideration: how is legal information with long-term, historical value (including, for example, amended statutes, repealed sections of regulations, and overruled cases) preserved for future use? In a print environment, information is preserved by maintaining paper copies of key

legislative documents, administrative materials, and judicial decisions and other resources. It is typical for more than one library, archive, or institution to keep a copy of these historical documents, further assuring their preservation.

Electronic information resides, however, on a computer or other storage device. New versions of computer hardware and software and changing storage media continually result in an inability to read or access older files, thereby making their content unavailable. As hardware, software, and storage media change, old documents are preserved by “migrating” to new formats. Electronic legal information of long-term value must be preserved in a usable format. Unfortunately, few states have addressed this critical need, and fewer still have an infrastructure in place to monitor older data and keep their storage methods up-to-date. The governmental and societal benefits of electronic creation and distribution are limited severely if state government information becomes unusable because of technological changes.

A third issue raised by the electronic creation and distribution of legal material flows from the necessity of preserving all forms of documents with long-term value: the issue is the responsibility of state government to make its legal resources easily, and permanently, accessible. Legal information is consulted by citizens, legislators, government administrators and officials, judges, attorneys, researchers, and scholars, all of whom may require access to both the current law and to older materials, including that which has been amended and superseded. Once properly preserved, electronic legal information of long-term value must also be easily accessible on the same basis as other legal information; that is, electronic legal information should be authenticated and widely available on a permanent basis. State governments must ensure an informed citizenry, which is essential for our democracy to function.

The issues that arise as state governments transition to an electronic legal information environment are common to every state. These issues are also encountered by subdivisions of state government, including municipalities and counties, as well as American Indian tribes. These governments face the same issues as the larger state government, and likewise must manage the entire life cycle of government information, from creation and publication to preservation. This act can be adapted for use by any governmental entity.

About the act. The Uniform Electronic Legal Material Act (UELMA) provides states with an outcomes-based approach to the authentication and preservation of electronic legal material. That is, the goals of the authentication and preservation program outlined in the act are to enable end-users to verify the trustworthiness of the legal material they are using and to provide a framework for states to preserve legal material in perpetuity in a manner that allows for permanent access.

The act does not require specific technologies, leaving the choice of technology for authentication and preservation up to the states. Giving states the flexibility to choose any technology that meets the required outcomes allows each state to choose the best and most cost-effective method for that state. In addition, this flexible, outcomes-based approach anticipates that technologies will change over time; the act does not tie a state to any specific technology at any time.

It should be noted that there are some important issues this act does not address, leaving them to other law or policy. First, this act does not mandate that states publish legal material electronically; choice of format is left entirely to a state's discretion. Second, the act does not require a state to convert older legal material from print format to electronic format. Print remains an accepted medium for preservation of and access to legal material. If, however, a state converts older legal material from print to electronic format, and if the state then designates that electronic format as official, the requirements of the act apply.

Third, this act does not deal with copyright issues, leaving those to federal law and state practice. Fourth, this act does not affect or supersede any rules of evidence; it only provides that electronic legal material that is authenticated is presumed to be a true copy. Fifth, the act does not affect existing state law regarding the certification of printed documents.

Sixth, this act does not interfere with the contractual relationship between a state and a commercial publisher with which the state contracts for the production of its legal material. The act requires that the official publisher be responsible for implementing the terms of the act, regardless of where or by whom the legal material is actually printed or distributed. For the purposes of the act, only a state agency, officer, or employee can be the official publisher, although state policy may allow a commercial entity to produce an official version of the state's legal material.

The UELMA is intended to be complementary to the Uniform Commercial Code (UCC, which covers sales and many commercial transactions), the Uniform Real Property Electronic Recording Act (URPERA, which provides for electronic recording of real property instruments), and the Uniform Electronic Transactions Act (UETA, which deals with electronic commerce). Each of these acts covers a unique topic, as does the UELMA, which addresses management of the most important state-level legal materials. The UELMA is not intended to conflict with any of these acts.

Conclusion. The use of digital information formats has become fundamental and indispensable to the operation of state government. This act addresses the critical need to manage electronic legal information in a manner that guarantees the trustworthiness of and continuing access to important state legal material. Technology changes quickly enough that state governments must address this issue, as existing electronic legal information is already in danger of being lost. A uniform act will allow state governments to develop similar systems of authentication and preservation, aiding the free flow of information across state lines and the sharing of experiences and expertise to keep costs as low as possible.

A uniform act should set forth provisions that can be efficiently followed and that achieve the stated purposes of the act. The Drafting Committee believes that this proposed uniform act meets these requirements. The act is straightforward in its terms, creates no additional administrative offices, and has no requirement of judicial or administrative oversight. The act was developed through extensive discussion and debate during five meetings of the Drafting Committee.

The Drafting Committee was assisted by numerous advisors and observers, representing a wide range of organizations. In addition to the American Bar Association advisors listed above,

important contributions were made by the observers who attended meetings, participated in conference calls, and submitted many comments on and suggestions for the various drafts of the act. The act is better for their contributions.

UNIFORM ELECTRONIC LEGAL MATERIAL ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Electronic Legal Material Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) “Legal material” means, whether or not in effect:

(A) the [insert name of constitution of this state];

(B) the [insert name of session laws];

(C) the [insert name of state code]; [or]

(D) a state agency rule that has or had the effect of law[;] [or]

[(E) the following categories of state administrative agency decisions [insert categories of decisions to be included]][:] [or]

[(F) reported decisions of the following state courts: [specify courts]][:] [or]

[(G) state court rules][:] [or]

[(H) [list any other category of legal material to be included]].

(3) “Official publisher” means:

(A) for [insert name of constitution of this state], the [insert appropriate agency or official];

(B) for [insert name of session laws], the [insert appropriate agency or official];

(C) for [insert name of state code], the [insert appropriate agency or official]; [or]

(D) for a rule published in the [insert name of administrative code], the [insert appropriate agency or official][:] [or]

[(E) for a rule not published in the [insert name of administrative code], the state agency adopting the rule][:;] [or]

[(F) for a state administrative agency decision included under paragraph (2)(E), the [insert appropriate agency or official]][:;] [or]

[(G) for a state court decision included under paragraph (2)(F), the [insert appropriate agency or official]][:;] [or]

[(H) for state court rules, the [insert appropriate agency or official]][:;] [or]

[(I) for [any other category of legal material included], [insert appropriate agency or official]].

(4) “Publish” means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

(5) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Legislative Note: With regard to Section 2(2), drafters will need to insert, in the place indicated by bracketed language, the proper name or title for several types of state legal material including the state constitution, session laws, statutory code, and administrative code, as well as the proper name or title of other legal material, provided as alternatives, the enacting state chooses to include in the act’s coverage.

If additional legal material is added, each type should be identified by its proper name or title and given its own subparagraph. If additional legal material is added to Section 2(2), a corresponding addition must be made to Section 2(3).

With regard to Section 2(3), drafters will need to insert, in the place indicated by bracketed language, the proper name or title for several types of state legal material, including the state constitution, session laws, statutory code, and administrative code, as well as the proper name or title of any other publications the enacting state includes in the act’s coverage. The name of the legal material inserted in place of the bracketed language must correspond

exactly with the name in the corresponding definition of legal material in Section 2(2).

Drafters will need to insert, in the place indicated by bracketed language, the proper name of the agency or state officer or employee designated as the official publisher.

With regard to Section 2(3)(H), drafters may need to make distinctions between courts, including courts of last resort, appellate level courts, and trial courts, including different types and levels of trial courts, depending on how court rules are promulgated or approved in the enacting state.

Comment

Several definitions used in this act are standard in Conference acts, including “electronic,” “record,” and “state.” These words, so defined, have been used in other acts promulgated by the Conference, including notably the Uniform Electronic Transactions Act (UETA), which has been adopted by 47 states, the District of Columbia, and the U.S. Virgin Islands as of March 2011. (The definition of “state” in UETA includes a second sentence regarding Indian tribes and Alaskan villages that is not part of this act’s definition.) The use of these terms in the same manner in several acts leads to a consistency within the laws of each state adopting the several acts, in addition to the sought-after uniformity among states.

Legal material. (Section 2(2)). The definition of “legal material” is intentionally narrow. As drafted, it includes only the most basic state-level legal documents: the state constitution, session laws, codified laws, and administrative rules with the effect of law. The act suggests as alternatives a range of additional legal material.

Among the additional legal material suggested for inclusion is state administrative agency decisions. An enacting state may choose to include those administrative agency decisions that are treated in that state as having the effect of law, for example, or the state may choose to include or exclude certain agency decisions in the act’s coverage, in which situation the decisions should be listed with specificity. Each enacting state is given discretion to determine which, if any, of its administrative agency decisions should be covered by the act.

In some states, the publication of judicial decisions and court rules is handled by the judicial branch, over which the state legislature may have no authority to mandate specific procedures such as those created by this act. Because of this potential separation of powers issue, judicial decisions and court rules are included in this act as an alternative in the definition of legal material. If an enacting state includes judicial decisions or court rules, some differentiation between legal material issued by the state’s various courts (i.e. trial courts of various types, appellate courts, and supreme court) may be necessary.

Enacting states may decide to expand the definition of legal material beyond that offered as alternatives. For example, in some states, an initiative or referendum process may result in the creation of statutory law outside of, or in addition to, the legislative process. An enacting state may choose to include in the definition of legal material the various documents created in an initiative or referendum process, including especially the final, uncodified form (similar to a session law) as passed by popular vote. States may decide to include enacted, but subsequently vetoed, legislation. Other states may decide to include certain categories of municipal or county

legal material in the act. The definition of legal material is left to the discretion of the enacting state, beyond the four categories of basic state-level legal material defined in this Section .

Many important sources of law, such as legislative journals and calendars, reports of legislative confirmations and other hearings, versions of bills, gubernatorial orders and proclamations, attorney general opinions, and many agency publications, might be included in the act's coverage under the discretionary section 2 (2) (H). Whether a state legislature can include in the act the records from certain executive branch officials (executive orders and proclamations, or attorney general opinions, for example) raises a separation of powers issue similar to that regarding judicial decisions.

If additional legal material is added to Section 2(2), a corresponding addition must be made to Section 2(3) that identifies an official publisher for the legal material.

Official publisher. (Section 2(3)). The state must designate an official publisher for each type of legal material defined in Section 2(2). This can, and most likely will, be an existing state agency, officer, or employee that already has responsibility for the publication of the legal material. The official publisher is the state actor charged with carrying out the provisions of this act.

To complete the definition of official publisher, an appropriate government agency or employee for each type of legal material must be identified, as indicated by bracketed language. Because the legal material may come from different departments, and even different branches, of government, the official publisher may be one employee or agency, or several.

This act only applies to legal material published by the official publisher designated in this Section. Many states contract with commercial printers or publishers for the production of their legal material, and under this act states can continue to contract out the production of their legal material as desired. The act does not interfere with the contractual relationship between the state and the commercial publisher. However, a commercial publisher cannot serve as official publisher of legal material for the purposes of this act.

SECTION 3. APPLICABILITY. This [act] applies to all legal material in an electronic record that is designated as official under Section 4 and first published electronically on or after [the effective date of this [act]].

Legislative Note: To include a preexisting publication in the coverage of the act, the following changes should be made. First, the present language of Section 3 should become subsection (a). Second, subsection (b), as follows, should be added: "(b) This [act] applies to the following legal material in an official electronic record that was first published before [the effective date of this [act]]: [insert proper name or title here]."

If preexisting legal material is included in the act's coverage, drafters should include the material in the definition of legal material in Section 2(2), and designate an official publisher for the material in Section 2(3), as necessary.

Comment

This act is intended to complement, and not affect, an enacting state's existing public records or records management laws and practices, under which non-electronic legal material is preserved. This act does not affect a state's responsibility to preserve non-electronic legal material.

The UELMA applies to legal material designated as official and first published in an electronic record on or after the act's effective date in the enacting state. If, after the effective date, an enacting state republishes legal material in an electronic record that was previously not published in an electronic record, and if the state designates as official the newly republished legal material, the UELMA applies. This may occur, for example, when the state is transitioning a category of legal material from print to electronic format. If legal material as defined by the act is first published only in an electronic record subsequent to the effectiveness of the act, the state must meet the requirements of the UELMA.

SECTION 4. LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.

(a) If an official publisher publishes legal material only in an electronic record, the publisher shall:

- (1) designate the electronic record as official; and
- (2) comply with Sections 5, 7, and 8.

(b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with Sections 5, 7, and 8.

Comment

This act does not direct a state to publish its legal material in any specific format or formats. The act leaves policy decisions regarding format of its legal material to the state.

There are no publication standards for legal information shared among the states at this time, and within a single state there may be multiple publishing practices for legal material. For example, today in a single state, the state's code may be published in a yearly paperback edition and electronically, court reports may be published in hardbound volumes, and the administrative regulations may be available in a looseleaf format or only in an electronic format. All states are transitioning from a print-only publishing environment to either an environment in which legal materials are published in a mix of formats or one in which legal materials are published in electronic format only. Many states publish the same legal material in both print and electronic formats. A state may designate as official as many formats of its legal material as it wishes. If

legal material in an electronic record is designated as official, the requirements of the act must be met regardless of whether the state publishes the same legal material in another format.

As a matter of courtesy to the user of electronic legal material, if the electronic version is not designated as official, the state should include information that displays with the legal material that explains the source of or the procedure by which the public can obtain a copy of the official version of the legal material.

Where the legal material is published only in an electronic format, the official publisher is required to designate as official the electronic format. This is a common sense requirement; if legal material is available from the state government in one version only, it follows that that version must be official.

SECTION 5. AUTHENTICATION OF OFFICIAL ELECTRONIC RECORD. An official publisher of legal material in an electronic record that is designated as official under Section 4 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

Comment

As matters of public policy, a state should make its official legal material available in a trustworthy form and citizens should be able to ascertain the trustworthiness of electronic official legal material. Reliable and accurate government legal material is necessary to allow those who use the information to make informed decisions based on it. The UELMA supports governments in fulfilling their obligations to provide trustworthy legal information so that citizens may participate knowledgeably in their own governance. The act also provides assurances to the legal community that the legal material it needs are accurate and reliable.

This act guides a state in implementing both policies. The intent of this act is to be technology-neutral, leaving it to the enacting state to choose its preferred technology for authentication of legal material in an electronic record from among the options available. The technology-neutral approach also allows the state to change technologies when necessary or desirable.

Authentication of electronic legal documents is an issue of both national and worldwide concern. Numerous governments and organizations are beginning to authenticate legal material and develop best practices. As of March, 2011, there are several U.S. jurisdictions in which legal material in an electronic record is being authenticated. Their practice offers guidance on specific technologies. For example, the United States Government Printing office provides official, authenticated Public Laws and other legal material using digital signatures (*see* <http://www.gpoaccess.gov/authentication/faq.html#1>). Utah authenticates its administrative code using hash values (*see* www.rules.utah.gov/publicat/code.html). Delaware provides an

authenticated electronic version of administrative rules using a digital signature (*see*, <http://regulations.delaware.gov/AdminCode/>). Arkansas issues its opinions in an authenticated, electronic format, also using digital signatures (*see* http://courts.arkansas.gov/court_opinions/sc/2009a/20090528/published/09-540.pdf).

France's electronic JOURNAL OFFICIEL, the official record of its legislation and regulations, is authenticated (*see* <http://journal-officiel.gouv.fr/>). South Korea has announced, as part of its transition to a more electronic environment, that it will improve its practices so that "digital documents are considered as valid as their printed versions". (<http://www.koreaherald.com/business/Detail.jsp?newsMLId=20101205000243>).

The Hague Conference on Private International Law, a 72-member inter-governmental organization that develops multilateral legal instruments, has developed a best practices document requiring authentication of its official electronic legal materials. The "Guiding Principles to be Considered in Developing a Future Instrument," begun in 2008, includes principles for Integrity and Authoritativeness that state, in part:

4. State Parties are encouraged to make available authoritative versions of their legal materials provided in electronic form.
5. State Parties are encouraged to take all reasonable measures available to them to ensure that authoritative legal materials can be reproduced or re-used by other bodies with clear indications of their origins and integrity (authoritativeness).

These Principles, when completed and adopted, will apply to the development of all instruments coming from the Hague Conference, and the principles will become standards for organizations and jurisdictions worldwide. This act adds to these emerging standards by approaching the issue from an outcomes-based perspective.

As shown in the examples above, products that are cost-effective, convenient, and immediate in outcome are already available for electronic authentication of legal material. As authentication of electronic information becomes standard, more products for and methods of authentication will be developed. This Section describes a technological outcome only—authentication of an electronic record. In order to allow states maximum flexibility, neither this section nor any other section of the act specifies any particular technologies or methods of authentication.

Regardless of the method of authentication, it is important that official publishers designate a "baseline" copy of all published legal material that constitutes the definitive document against which all others are compared for the purpose of authenticating the legal material. The format of the baseline copy may vary, depending on the practices of the official publisher and the type of legal material. The baseline copy will ensure that the legal material required to be preserved under Section 7, and to which public access is made available in Section 8, is accurate and trustworthy.

SECTION 6. EFFECT OF AUTHENTICATION.

- (a) Legal material in an electronic record that is authenticated under Section 5 is

presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this [act], legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authentication of legal material in an electronic record authenticated under Section 5 has the burden of proving by a preponderance of the evidence that the record is not authentic.

Comment

The intent of this act is to provide the end-user of electronic legal material with a presumption that authenticated legal material is accurate. The act extends the same presumption to authenticated electronic legal material that is provided to legal material published in a book, and results in the same shift in the burden of proof as occurs when a party questions the accuracy of the print legal material. This is the legal outcome of authentication.

The act does not affect or supersede any rules of evidence, and leaves further evidentiary effect to existing state law and court rules. The presumption that authenticated electronic legal material is an accurate copy is not determinative of any criteria a court may wish to establish regarding admissibility and reliability of electronic legal material. Beyond any steps necessary to authenticate electronic information as required by Section 5, no burden is imposed on courts, lawyers, or other users.

Authentication provides only a presumption of accuracy, and a party disputing the accuracy of legal material in an authenticated electronic record can offer proof as to its inaccuracy. Authentication of an electronic record provides the same level of assurance of accuracy of the electronic record that publication in a printed book provides. Just as the reader of a book can look at the book to determine if the document has been altered, the user of electronic legal material can use the authentication method to determine if the electronic document has been altered.

This act does not affect the practice of certification, and courts retain discretion to require a certified copy to meet a particular evidentiary standard. Certification is a long-standing practice in which an official publisher reviews a printed document and adds a notarization or other verification that the document is an accurate copy of the original.

The act does not require electronic legal material from another state to be authenticated for use in the enacting state. However, if another state has adopted this act, the same presumption of accuracy applies to its authenticated electronic legal material. Widespread adoption of this act will further the recognition and use of electronic legal material.

SECTION 7. PRESERVATION AND SECURITY OF LEGAL MATERIAL IN OFFICIAL ELECTRONIC RECORD.

(a) An official publisher of legal material in an electronic record that is or was designated as official under Section 4 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subsection (a) in an electronic record, the official publisher shall:

- (1) ensure the integrity of the record;
- (2) provide for backup and disaster recovery of the record; and
- (3) ensure the continuing usability of the material.

Comment

Legal material retains its value regardless of whether it is currently in effect. This includes legal material that is subsequently amended or repealed, as happens with statutes, as well as legal material such as cases that may be reversed or overruled. Legal material does not cease to be legal material with the passage of time. For example, the outcome of today's lawsuit may depend on rights or obligations created by yesterday's statutes or regulations. Researchers need historical as well as current legal material to understand the development of legal doctrine and predict its future course. Legal material must be saved and protected—preserved—to allow for future use.

The best practices document of the Hague Conference on Private International Law, "Guiding Principles to be Considered in Developing a Future Instrument," acknowledges the importance of preservation of all legal material in its delegation to each state of the responsibility for preserving its legal material. The Guiding Principles document states that: "7. State Parties are encouraged to ensure long-term preservation and accessibility of their legal materials . . .". This act provides guidance to an enacting state to allow it to meet this principle.

Enacting states are given discretion to decide what electronic legal material must be preserved. This is done through the definition of legal material in Section 2. Section 7 requires that any legal material included in the Section 2 definitions and designated as official under section 4 must be preserved. The preservation requirement is intended to cover all materials typically published with the defined legal material. For example, state session laws usually include lists of legislators and state officials, memorials, proposed or final state constitutional amendments, and resolutions, all of which should be preserved along with the legislative enactments.

The UELMA does not address the measures taken by states to secure their internal information, prior to the point of official publication. This act applies only to legal material that has been officially published and thereby made available to the public. Section 7 (a) requires that an official publisher provide for the preservation and security of electronic legal material designated as official, in either electronic or non-electronic form. This gives states the flexibility to preserve electronic legal material in a print format or in an electronic format. Regardless of the method chosen for preserving legal material, the official publisher's practices should be carried out in accordance with existing public records and records management laws.

If legal material is preserved in print form, procedures to do so securely are well-established and are therefore not specified in the act. Traditionally, multiple copies of law books have been maintained by several libraries in diverse geographic locations. This method of preservation and security can be replicated for electronic legal material by printing multiple copies and distributing them in the same manner as books. Many states have an official state archivist, whose duties include preserving copies of important documents such as legal material and who may be able to provide assistance in preserving electronic legal material.

If legal material is preserved electronically, however, Section 7 (b) of the act requires certain outcomes. Electronic records must be securely stored to ensure their integrity. In addition to other possible security measures, best practices for secure storage of electronic records call for the maintenance of multiple copies that are geographically and administratively separated. As with preservation in print form, the existence of multiple electronic copies maximizes the possibility that at least one copy of important records will remain available, even after a natural disaster or other emergency.

To maintain security over time, backup copies of electronic records must be made periodically. A backup copy provides an identical version of an electronic record that is usable in case the original is lost or unusable. The backup process may be incremental, essentially tracking all changes to the original, or a continuous backing up of the entire system that saves the complete text of each version, among other methods. Whatever method the state chooses must back-up the original material plus subsequent changes; a changed record becomes a new record with content that must also be backed-up. Legal material is continually updated; states must develop systems that recognize the dynamic nature of legal material and provide for appropriate preservation.

Preservation requires that the electronic records be migrated to new storage media from time to time. Just as cassette tapes were replaced by CD-ROMs which were then replaced by digital music formats, storage media for electronic records has and will continue to change over time. While the nature of new technologies is not known at the present time, the fact that new technologies will be developed is a certainty. Costs of storage media are decreasing rapidly as the marketplace produces new products and methods. The anticipation of the Drafting Committee is that preservation of electronic records will be cost neutral when compared with the current system of storing tangible legal material.

In migrating to new storage media, the official publisher should preserve the legally significant formatting of electronic legal material. Legal material is often complex in organization and presentation. The formatting of the legal material, including italicization,

indentation, numbering, bold face fonts, and internal subdivisions and subsections, can be significant. Hierarchies are defined and priorities are established, for example, by formatting, and legislative intent is made clear.

The act does not impose a duty to convert non-electronic legal material retrospectively to an electronic format. Choice of format is entirely up to the state. If, however, the official publisher chooses to digitize non-electronic legal material and designate that material as official, the requirements of the act must be met once the legal material is published in an electronic format.

SECTION 8. PUBLIC ACCESS TO LEGAL MATERIAL IN OFFICIAL

ELECTRONIC RECORD. An official publisher of legal material in an electronic record that is required to be preserved under Section 7 shall ensure that the material is reasonably available for use by the public on a permanent basis.

Comment

Our democratic system of government depends on an informed citizenry. Legal material includes information essential to all citizens in a democracy, whether the legal material is effective currently, has been repealed or overruled, or is of historical value only. To exercise their rights to participate in our democracy, citizens must have reasonable access to all legal material.

This section highlights the importance to the citizenry of legal material by requiring permanent public access to electronic legal material. Permanent public access to official electronic legal material allows citizens to stay informed of legal developments and carry out their democratic responsibilities. Any legal material in an electronic record designated as official under Section 4 of this act must be preserved under Section 7. All legal material required to be preserved under Section 7 of the act must be publicly accessible under this Section.

Legal material preserved under this act must be “reasonably available” to the general public. Reasonable availability does not necessarily mean that the information must be accessible around the clock, every day of the year. An enacting state has discretion to decide what is reasonable, which should be determined in a manner consistent with other state practice. Providing public access to state records is routinely done by state archives, whose practices may provide important guidance to official publishers. Reasonable availability may mean that the legal material can be used during business hours at publicly accessible locations, such as designated state offices, public libraries, a state repository or archive, or similar location.

Access to preserved electronic legal material may be limited by the state’s determination of reasonableness, but access must be offered permanently. That is, the preserved electronic legal material must remain available in perpetuity. This requirement makes electronic legal material comparable to print legal material, which is stored on a permanent basis in libraries, archives, and offices.

The Hague Conference's "Guiding Principles to be Considered in Developing a Future Instrument" state that "2. State Parties are also encouraged to make available for free access relevant historical materials . . .". In order to provide for maximum flexibility, and recognizing economic realities, however, the act does not address the issue of cost for access to electronic legal material. The result is that providing free access or charging reasonable fees for access to electronic legal material is a decision left up to the states.

SECTION 9. STANDARDS. In implementing this [act], an official publisher of legal material in an electronic record shall consider:

- (1) standards and practices of other jurisdictions;
- (2) the most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;
- (3) the needs of users of legal material in an electronic record;
- (4) the views of governmental officials and entities and other interested persons; and
- (5) to the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this [act].

Comment

The language of this section, based on a similar provision in the Uniform Real Property Electronic Recording Act, requires consideration of standards and best practices for the authentication, preservation, and permanent access of electronic records. As private sector organizations, government agencies, and international organizations tackle these issues, their work may offer guidance to states as this act is implemented on an on-going basis. Like many other technology-related procedures, standards and best practices for management of electronic records are in a state of development and refinement. For example, appropriate information security is a key element of the authentication process, and security standards are currently being developed. The state's own standards should include a method to evaluate the effectiveness of the official publisher's implementation of this act.

Each enacting state is encouraged to consider a single system for authentication of, preservation and security of, and public access to its legal material. A single system will lead to

financial and personnel efficiencies in implementation and maintenance, and avoid confusion on the part of the users. While each enacting state will determine its own practices, states are encouraged to communicate, coordinate, and collaborate in the development of authentication, preservation, and permanent access standards.

SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 12. EFFECTIVE DATE. This [act] takes effect

Comment

This act applies to legal material in an electronic record designated as official and first published after the effective date of the act, as noted in Section 3. Additional time may be needed, beyond the usual date of effectiveness of its statutes, for a state to prepare policies and procedures to meet the requirements of authentication, preservation and public access of electronic legal material.



American Association of
Law Libraries

March 31, 2016

Richard T. Cassidy
President
Uniform Law Commission
111 N. Wabash Ave, Suite 1010
Chicago, Illinois 60602

Re: Support for the Uniform Electronic Legal Material Act

Dear Mr. Cassidy:

On behalf of the American Association of Law Libraries (AALL), I am writing to express strong support for the Uniform Electronic Legal Material Act (UELMA), which establishes an outcomes-based, technology-neutral approach to ensuring that online state legal material deemed official will be preserved and will be permanently available to the public in unaltered form.

As states increasingly realize the benefits of technology to promote accountability, transparency, and public participation by expanding online access to legal materials, it has become clear states must also take steps to ensure that the information is reliable and accurate. UELMA provides a framework to help the states ensure that online legal materials provide the same level of trustworthiness traditionally associated only with print publication.

As AALL's observer to the Uniform Law Commission's UELMA drafting committee, I had a front row seat at the thoughtful discussions among stakeholders about the opportunities and challenges raised by access to electronic legal materials.

Since its approval by the Uniform Law Commission in 2011, AALL members have strongly advocated in support of UELMA's adoption. We are pleased that 12 states – California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Minnesota, Nevada, North Dakota, Oregon, and Pennsylvania – have adopted the Act to date.

AALL commends the drafting committee for developing a flexible solution to meet states' needs. We have members throughout the country who would be happy to join any efforts you make to ensure that the Act is passed in as many states as possible. UELMA will ensure that users of online legal information will have permanent access to the authentic legal information they require. The act supports an active citizenry in a strong democracy.

Sincerely,

Keith Ann Stiverson, 2015-2016 President

cc: Liza I. Karsai, Executive Director, ULC
Katie Robinson, Legislative Program Director, ULC
Brian Lewis, Legislative Counsel, ULC
Michele L. Timmons, Chair, UELMA Drafting Committee



Defending Liberty
Pursuing Justice

AMERICAN BAR ASSOCIATION

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January 3, 2013

Michael Houghton, President
Uniform Law Commission
111 N. Wabash Ave, Suite 1010
Chicago, Illinois 60602

Dear Mr. Houghton:

I am writing on behalf of the American Bar Association ("ABA") Standing Committee on the Law Library of Congress ("Standing Committee") in support of the Uniform Electronic Legal Material Act ("UELMA"), a uniform state law addressing authentication, access, and preservation of official state electronic legal information.

Our Standing Committee is the second-oldest ABA entity, celebrating an 80-year relationship with the Law Library of Congress. Because our Standing Committee is committed to advancing the mission of the Law Library of Congress and its need to provide current, authenticated and accurate legal information, we supported the resolution on UELMA adopted by the ABA House of Delegates at our 2012 Midyear Meeting.

As state and local governments increasingly publish legal and legislative materials online, the magnitude and complexity of issues related to ensuring the reliability and accuracy of online legal material have come to light. UELMA brings those issues into focus and provides a consistent, technology-neutral approach that allows the various states to tailor solutions addressing the problems that arise when official legal materials are offered only online. UELMA also provides guidance on the preservation of electronic legal materials and requires accessibility into the future.

Providing trustworthy legal and legislative information is a major concern to the Law Library of Congress as well as to courts, legal researchers, other law libraries, historians, and commercial suppliers. Enactment of UELMA will harmonize the authentication of official online legal material across jurisdictions by providing a basic framework that provides entities and the general public with a means to confirm the trustworthiness of the electronic material they are using.

As more and more states and territories begin to address the issues of authentication, access, and preservation of official state electronic legal information, the American Bar Association Standing Committee on the Law Library of Congress is strongly encouraging these states and territories to adopt the UELMA.

Sincerely,

M. Elizabeth Medaglia
Chair

cc: John Sebert, Executive Director, ULC
Nicole Julal, Senior Legislative Counsel, ULC
Michelle Timmons, Chair, ULC UELMA Drafting Committee

CAPITOL RESEARCH

● ● ● SPECIAL REPORT

Public Access to Official State Statutory Material Online

Executive Summary

As state leaders begin to realize and utilize the incredible potential of technology to promote transparency, encourage citizen participation and bring real-time information to their constituents, one area may have been overlooked. Every state provides public access to their statutory material online, but only seven states—Arkansas, Delaware, Maryland, Mississippi, New Mexico, Utah and Vermont—provide access to *official*¹ versions of their statutes online. This distinction may seem academic or even trivial, but it opens the door to a number of questions that go far beyond simply whether or not a resource has an official label.

Has the information online been altered—intentionally or not—from its original form? Who is responsible for mistakes? How often is it updated? Is the information secure? If the placement of a resource online is not officially mandated or approved by a statute or rule, its reliability and accuracy are difficult to gauge.

As state leaders have moved quickly to provide information electronically to the public, they may have overlooked the process and manner in which that information is conveyed online. Several states, such as Delaware, have recognized this issue and met it head-on, establishing procedures and rules that clarify the status of their statutory material. The Uniform Law Commission recently approved The Uniform Electronic Legal Material Act, which provides guidance for states as they move to provide the most reliable information possible to the public through electronic means.

Background

The reason public access to government information matters is simple. Associate U.S. Attorney General Tom Perrelli told an audience of federal workers



in March:² “You’ve often heard it said that sunlight is the best disinfectant. And the recognition is that, for us to do better, it’s critically important for the public to know what we’re doing.”

At the most basic level, free and open public access to the law that governs this country—federal and state—is necessary to create the transparency that is fundamental to a functional participatory democracy. Furthermore, as a democratic society, the citizens of this country are the driving force behind all its institutions, including those institutions that create and compose the law. The court eloquently relays this concept in *State of Georgia v Harrison Co.*, saying, “the citizens are the authors of the law, and therefore its owners, regardless of who actually drafts the provisions, because the law derives its authority from the consent of the public, expressed through the democratic process...”³ It logically follows that, as the “owners” of the law, citizens should have unfettered access to that which they own.

In the early 1960s, a team of University of Pittsburgh employees under the leadership of professor John Harty successfully converted the public health statutes of all 50 states into a digital format, using



The Council of State Governments
Sharing Capital Ideas

¹Black's Law Dictionary provides us with a working definition for an “official” legal resource, defining the term as “an official version of regulatory materials, statutes, session laws, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be.”

²Carrie Johnson, *Has Obama Lived Up to His Pledge on Transparency?* National Public Radio, (March 15, 2011). <http://www.npr.org/2011/03/15/134540530/has-obama-lived-up-to-his-pledge-on-transparency>, accessed July 5, 2011.

punched cards and magnetic tape.⁴ Over the past 50 years the world has exploded into a more technologically advanced society than the one Harty knew. According to a recent study by the Nielson Co., more than 80 percent of Americans now have a computer in their homes, and of those, almost 92 percent have Internet access.⁵ With this explosion of technology comes the unprecedented potential to offer the public free and open access to government and legal material through electronic means.

But state governments provide access to the most basic building blocks of legal information—state laws—in different ways. In 2003, the American Association of Law Libraries published the *State-by-State Report on Permanent Public Access to Electronic Government Information*,⁶ which strived to identify

the steps state governments were taking to provide the public access to government information online, particularly primary legal materials.

Three years later, the association wrote a follow-up to that report—the *State-by-State Report on Authentication of Online Legal Resources*. The purpose of this report moved beyond merely identifying which states provided access—permanent or otherwise—to electronic primary law resources⁷ and sought to determine how trustworthy those electronic legal resources were by both traditional authentication definitions and emerging definitions related to online content.

Both the 2003 and 2006 reports found that while some states provided access to official⁸ resources online, those resources were not trustworthy. “A significant number of the state online legal resources are official but none are authenticated or afford ready authentication by standard methods. State online primary legal resources are therefore not sufficiently trustworthy,” the report said.

Following up on the findings made by American Association of Law Libraries, The Council of State Governments surveyed the legislative websites of the 50 states and interviewed key staff members for clarification in an effort to identify the official status of primary legal material provided online by states as of July 2011. A majority of states do not provide official online resources. Identification of authentication measures was beyond the scope of this survey. Furthermore, this survey focused solely on the official status of state statutes online, rather than all of the states’ primary legal materials.

Key Findings

All states offer access to their statutes online.

- Every state provides some form of public access to its statutes online, either by directly hosting a database of the statutes on the official state website or by providing a link on its website to content provided on a third-party’s site.

A majority of states do not provide free public access to official versions of their state statutes online.

- Seven states—Arkansas, Delaware, Maryland, Mississippi, New Mexico, Utah and Vermont—provide access to official versions of their statutes online.

The manner in which state websites deliver access to their statutes—official or otherwise—varies significantly.

- Some state websites offer sophisticated tools to search their statutes, while other states provide more rudimentary tools.

Many state websites offer a disclaimer regarding their online content.

- Most states provide a general waiver of warranty that limits the liability of the state with respect to the accuracy of its online content. Many state websites provide a disclaimer regarding the official nature of its content, although the clarity of the disclaimers and the manner in which the disclaimers are displayed varies significantly.

Most states maintain a contract with LexisNexis and/or West Publishing.

- Most states publish official or unofficial print versions of their statutes through LexisNexis and/or West, but a user generally must pay for access to those statutes. Seven states—Arkansas, Colorado, Georgia, Maryland, Mississippi, Tennessee and Vermont—contract with LexisNexis to provide free online access to their statutes through programs called LexisNexis Total Solutions or Michie’s Legal Resources. Four of the seven states that provide online access to their official statutes do so through this service.

Moving Forward

The Uniform Electronic Legal Material Act, for which the Uniform Law Commission gave final approval in July 2011, is intended to provide, according to the commission, “a consistent, outcomes-based approach to solving (the problem of non-uniform state electronic legal materials) that can be adopted in every state and territory.”

The act provides a clear way in which states can identify the official publisher of a given government record, including state statutory material. The act also provides comprehensive guidance in establishing the key components of an authenticated and official electronic record system. The content of the model act can be found [here](#).

⁴State of Georgia v. Harrison Co., 548 F. Supp. 110, 114 (ND Ga. 1982).

⁵William G. Harrington, A Brief History of Computer-Assisted Legal Research, 77 LAW LIBR. J. 543, 544 (1985).

⁶An Overview of Home Internet Access in the U.S., The Nielson Company, (December 2003). <http://blog.nielson.com/nielsenwire/wp-content/uploads/2009/03/overview-of-home-internet-access-in-the-us-jan-6.pdf>, accessed July 5, 2011.

⁷Richard J. Matthews, et al., State-by-State Report on Permanent Public Access to Electronic Government Information, The American Association of Law Libraries, (2003). <http://www.aallnet.org/Archived/Government-Relations/Issue-Briefs-and-Reports/2003/ppareport.html>

⁸The report targeted six sources of law: state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions.

The AALL report uses Black’s Law Dictionary to provide a definition of an official legal resource, defining the term as “an official version of regulatory materials, statutes, session laws, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be.”

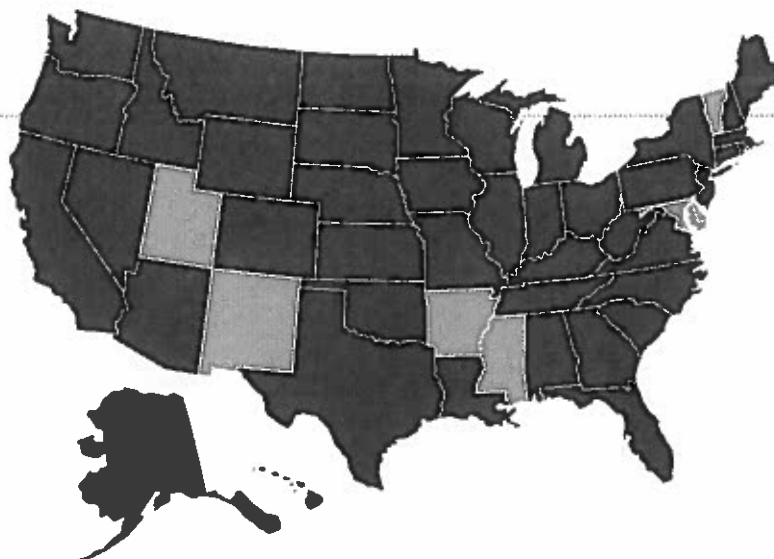
Summary of State Profile Information

State	Online Statutes Official?	State Statute URL
Alabama	No	http://alisondb.legislature.state.al.us/acas/ACASLoginE.asp
Alaska	No	http://www.legis.state.ak.us/basis/folio.asp
Arizona	No	http://www.azleg.gov/ArizonaRevisedStatutes.asp
Arkansas	Yes	http://www.lexisnexis.com/hottopics/arcode/Default.asp
California	No	http://www.leginfo.ca.gov/statute.html
Colorado	No	http://www.michie.com/colorado/
Connecticut	No	http://www.cga.ct.gov/asp/menu/statutes.asp
Delaware	Yes	http://delcode.delaware.gov/
Florida	No	http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes&CFID=209106297&CFTOKEN=36196345
Georgia	No	http://www.lexisnexis.com/hottopics/gacode/Default.asp
Hawaii	No	http://www.capitol.hawaii.gov/site1/hrs/default.asp
Idaho	No	http://legislature.idaho.gov/ldstat/TOCID5tatutesTOC.htm
Illinois	No	http://www.ilga.gov/legislation/ilcs/ilcs.asp
Iowa	No	http://search.legis.state.ia.us/nxt/gateway.dll/ic?f=templates&fn=default.htm
Kansas	No	http://www.kslegislature.org/li/statute/
Kentucky	No	http://www.lrc.ky.gov/lrs/titles.htm
Louisiana	No	http://www.legis.state.la.us/
Maine	No	http://www.mainelegislature.org/legis/statutes/
Maryland	Yes	http://mlis.state.md.us/
Massachusetts	No	http://www.malegislature.gov/Laws/GeneralLaws/Search
Michigan	No	http://www.legislature.mi.gov/(5(k0d1cm2rb15qjk55v5gm0m55))/mileg.aspx?page=MCLBasicSearch
Minnesota	No	https://www.revisor.mn.gov/pubs/
Mississippi	Yes	http://www.sos.state.ms.us/ed_pubs/mscode/
Missouri	No	http://www.moga.mo.gov/homestatsearch.asp
Montana	No	http://data.opi.mt.gov/bills/mca_toc/index.htm
Nebraska	No	http://nebraskalegislature.gov/laws/browse-statutes.php
Nevada	No	http://www.leg.state.nv.us/law1.cfm
New Hampshire	No	http://www.gencourt.state.nh.us/rsa/html/Indexes/default.html
New Jersey	No	http://lis.njleg.state.nj.us/
New Mexico	Yes	http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0
New York	No	http://public.leginfo.state.ny.us/menuf.cgi
North Carolina	No	http://www.ncga.state.nc.us/gascripts/statutes/statutes.asp
North Dakota	No	http://www.legis.nd.gov/information/statutes/cent-code.html
Ohio	No	http://codes.ohio.gov/orc
Oklahoma	No	http://www.oklegislature.gov/osstatuestitle.html
Oregon	No	http://www.leg.state.or.us/ors/
Pennsylvania	No	http://www.legis.state.pa.us/cfdocs/legis/li/public/cons_index.cfm
Rhode Island	No	http://government.westlaw.com/linkedslice/default.asp?SP=pac-1000
South Carolina	No	http://www.rilin.state.ri.us/Statutes/Statutes.html
South Dakota	No	http://www.scstatehouse.gov/code/statmast.htm
South Dakota	No	http://legis.state.sd.us/statutes/index.aspx
Tennessee	No	http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=tncode
Texas	No	http://www.statutes.legis.state.tx.us/Index.aspx
Utah	Yes	http://le.utah.gov/~code/code.htm
Vermont	Yes	http://www.leg.state.vt.us/statutesmain.cfm
Virginia	No	http://lis.virginia.gov/000/src.htm
Washington	No	http://apps.leg.wa.gov/rcw/
West Virginia	No	http://www.legis.state.wv.us/WVCODE/Code.cfm
Wisconsin	No	http://legis.wisconsin.gov/rsb/stats.html
Wyoming	No	http://legisweb.state.wy.us/titles/statutes.htm

STATE PROFILES

● NOT OFFICIAL

● OFFICIAL



ALABAMA | NOT OFFICIAL

The Legislative Research Office contracts with West Publishing to publish both the official print and unofficial online versions of the Code of Alabama. An official copy of the code also is maintained by the Secretary of State's office.

The Alabama Legislative Information System Online, called ALISON, a modified version of a legislative intranet site built for the legislative members, publishes an unofficial copy of the Alabama Code online. The following disclaimers about the official status of the site's content can be found throughout the site:

- The information provided on ALISON is not the official information provided by the Legislative offices.
- The Code of Alabama is updated on the ALISON site only after any supplements have been published, the Code Commissioner has given their approval and the Legislature has voted to approve the Codification bill.

According to staff at the legislative reference service, the Code of Alabama located on ALISON is generally one year behind on updates.

ALASKA | NOT OFFICIAL

By contract with the Alaska Legislative Council, Lexis is the official publisher for the state of Alaska, as established in Alaska Statutes, AS 01.05.006.

The Alaska Statutes are available online through "Infobases," however, the site clearly states the statutes are not official and one should refer to the official printed version for certainty of content. Furthermore, the state does not guarantee the accuracy of the material.

ARIZONA | NOT OFFICIAL

The Arizona Legislature, through the Legislative Council, provides access to the Arizona Revised Statutes on its website. No disclaimers appear on the site with respect to the official status of that content. While Legislative Council staff confirms the statutes found on the site are not official content, they explain there is a process to ensure the content is consistent with the official version.

ARKANSAS | OFFICIAL

Arkansas contracts with LexisNexis to provide free public access to the official Arkansas Code Annotated, current through 2010 fiscal session and updates. The Arkansas General Assembly website links to the Lexis site. The website includes a notice indicating the official status of the acts, that they are copyrighted by the State of Arkansas and that the website is maintained by LexisNexis, the publisher of the Arkansas Code of 1987.

CALIFORNIA | NOT OFFICIAL

The California State Legislature provides access to the state's statutes—the California Code—through its website; however, this content is not official. According to the legislature's law library staff, no official sources for the state's statutes, print or otherwise, are available. Both West and LexisNexis publish unofficial print versions of the state's statutes. The official or unofficial status of online content is not mentioned on the legislature's site, nor is there any mention of the two unofficial print versions.

All states offer access to their statutes online.

COLORADO | NOT OFFICIAL

Colorado maintains a contract with LexisNexis as the official publisher of its printed statutes. LexisNexis also provides access to those statutes electronically, although, according to staff, the electronic version is unofficial and is for informational use only. A link on the state's Office of Legislative Legal Services website takes users to the Michie's Legal Resources site (LexisNexis) where users can access the Colorado Revised Statutes free of charge. The legal services office site makes an indirect statement as to the official status of the online statutes, saying that "the official set of statutes has been published each year in a softbound edition as well as an official CD-ROM edition."

Once users move to the Michie site, they first see a disclaimer stating that the "Colorado Revised Statutes are made available for public use by the Committee on Legal Services of the Colorado General Assembly through a contractual arrangement with the LexisNexis Group (which prepares and maintains the website)," although it makes no mention of the content's official status.

CONNECTICUT | NOT OFFICIAL

The Connecticut General Assembly's website provides access to the General Statutes of Connecticut, but makes clear through two disclaimers/notes that the statutes are not official. A note to users of the site explains the Legislative Commissioners' Office is responsible for codifying and compiling the statutes for the purposes of a print publication, but is silent on the electronic version of the code.

Another disclaimer more directly addresses the accuracy, timeliness and unofficial status of the content. The disclaimer also states that the only official copy is the print version and directs users to the Legislative Bill Room in the Legislative Office Building to obtain a copy; it even provides a room number.

DELAWARE | OFFICIAL

Delaware is ahead of the curve in officially placing its laws online. According to the state's registrar of regulations, the state's online statutes were made official about six months ago. The state provides access through its website, the content for which is formatted and created in cooperation with LexisNexis. The state maintains a contract with LexisNexis for formatting online content. According to staff, the process by which online content is updated is clear and rapid. Once the governor signs a bill, the state notifies LexisNexis and sends the content within seven days. LexisNexis formats the new material within a few days and sends it to the Legislative Council, which in turn updates the state's online version, usually within four hours of receipt.

A notice on the site explains the currency of the content, that the code is prepared by the Delaware Code Revisors and the editorial staff of LexisNexis, and that it is considered official. It also includes a

A majority of states (43) do not provide free public access to official versions of their state statutes online.

disclaimer regarding legal liability—similar to other state sites—that says the state makes no warranty as to the merchantability or accuracy of the content.

In addition to the HTML version on the website, the code also is available in eBook formats. The publication of the official Delaware Code online is not addressed in the statutes, although the preparation and publication of the code is addressed in Title 1, Chapter 2, § 210.

FLORIDA | NOT OFFICIAL

Florida offers public access to its statutes online, but they are not considered official. According to staff, the printed copy of the Florida Statutes is still the only version recognized as official. The printed copy of the statutes is self-published by the state, while West Publishing and LexisNexis purchase the content from the state for fee-based publication online. The authority for the Office of Legislative Services—and thus the Division of Statutory Revision—to publish or seek to contract for the publication of the statutes can be found in Florida Statutes 11.242.

Although staff indicated the statute website includes a disclaimer that the content is not official, that disclaimer could not be located.

GEORGIA | NOT OFFICIAL

The website of the General Assembly of Georgia provides access to the state's statutes through a link to a LexisNexis hosted site. The LexisNexis site includes a note on free public access to the content. The note provides copyright information regarding the use of the content and says the site is provided by LexisNexis free of charge. Although it does not explicitly state the content is not "official," the note explains the print version of the Official Code of Georgia is the "authoritative" version and, in case of conflict between the electronic and print versions, the print version "shall control."

HAWAII | NOT OFFICIAL

Hawaii provides access to its statutes online, but clearly states on the website through a disclaimer those statutes are not official. The disclaimer also says the information on the site is provided as a public service for informational purposes only, the state denies any legal liability for the content (that it is provided "as is"), and that users of the site should look to the official version Hawaii's laws—the 1993 Replacement volumes of the Hawaii Revised Statutes—for clarity.

The manner in which state websites deliver access to their statutes— official or otherwise— varies significantly.

IDAHO | NOT OFFICIAL

The Idaho Code is available online but is not the official version of the state's statutes. The official status of the content is addressed twice on the Idaho Legislature's website. A general disclaimer states the code is made available as a "public service," which on many state sites, indicates the content is for "research purposes" only and is not official.

In a less obvious location, another site disclaimer denies any liability that might arise out of use of the information on the site. It disclaims the accuracy and timeliness of the information on the site and identifies the official version of the code as being published for the Idaho Code Commission by LEXIS Publishing.

ILLINOIS | NOT OFFICIAL

A state site maintained by the Legislative Reference Bureau provides the Illinois Compiled Statutes. The site has a few disclaimers that address the official status of the statutes, the first of which says updating the database is an ongoing process and may not be complete.

The second disclaimer addresses the issue of official status much more clearly, stating unequivocally that the content is "NOT" in any sense official and the accuracy of the content cannot be assured. The disclaimer also urges users to consult the "official documents," although fails to mention what those official documents are.

IOWA | NOT OFFICIAL

The Iowa General Assembly provides access to the Code of Iowa. While a disclaimer states the content is highly accurate and timely, it also says it is not official and that the printed publication is the official version. In addition, section 2B.17 of the Code of Iowa specifies the printed official sources are the only authoritative versions of Iowa's session laws, codified statutes and administrative rules.

KANSAS | NOT OFFICIAL

The Kansas Legislature provides access to the state's statutes through its website. Although the site containing the statutes includes no disclaimer, the Kansas Officer of the Revisor's website indirectly mentions that the online version provided by the legislature is not official. Staff confirms the content on the site is not official and the only official version of the state's statutes is the print edition.

KENTUCKY | NOT OFFICIAL

The Kentucky General Assembly provides access to the Kentucky Revised Statutes on its website, but clearly states at the top of the statute access page that, "This page contains important information about the WWW version of the Kentucky Revised Statutes. First-time users are encouraged to read this text with care." The information after this note says the content is an "unofficial" posting of the official database maintained by the Kentucky Legislative Research Commission and addresses the currency of the information provided. Another section, "terms and conditions of use," clearly states the content is not official and is "intended for informational purposes only." It also provides a link to more information about the "certified versions" of the state's statutes.

KRS 7.131 requires the Kentucky Legislative Research Commission to maintain the official version of the state's statutes in an electronic database, but does not address the issue of online statutes being official. However, KRS 7.132 provides that the commission may designate particular versions of the statutes as certified versions under certain conditions. Two printed editions of the Kentucky Revised Statutes are designated as certified versions by the Kentucky Legislative Research Commission. One official version is published by LexisNexis (formerly Michie Law Publishers) and the other by West (formerly Banks-Baldwin Law Publishing Co.).

Under KRS 7.138, only texts from the official version or a certified version of the Kentucky Revised Statutes may be submitted or cited by a party or relied upon by a court or an administrative officer or body in judicial and administrative proceedings.

LOUISIANA | NOT OFFICIAL

The Louisiana statutes are provided through the legislature's website, but they are not official. According to staff, West was the official publisher of the statutes until 2005. Since 2005, LexisNexis has been the official publisher of the statutes, both annotated and unannotated. The LexisNexis print version has been designated as official by the secretary of state.

The Louisiana legislature's website does not explicitly state the content provided online is not official, nor does it make reference to the LexisNexis official version. It does provide a general disclaimer, similar to other state disclaimers, with respect to accuracy and legal liability. It states the legislature does not warrant the information for accuracy or completeness.

MAINE | NOT OFFICIAL

The Maine Legislature provides access to the state's statutes on its website, but these are not official. The site provides a disclaimer, similar to other

state's disclaimers, that Maine does not warrant the content and disavows liability for its use. It also explicitly says the statutes found on the site have not been officially certified by the secretary of state and users should refer to the Maine Revised Statutes Annotated for "certified" text. West publishes the Maine Revised Statutes Annotated.

The Office of the Revisor of Statutes also addresses the use of online content on its website, with a disclaimer identifying the content as being provided as a "public service" and similarly does not warrant any of the content. It provides an address from which one can obtain a copy of the official statutes.

MARYLAND | OFFICIAL

Maryland's Department of Legislative Services contracts with the Michie Co. (LexisNexis) to publish the official version of the state's statutes, the Code of Maryland. The state also contracts with LexisNexis to provide free public access to the statutes from a site maintained by the company. A link to that site can be found on the general assembly's website.

The Michie Co. (which LexisNexis purchased) has been the official publisher of the Code of Maryland since at least 1957, as evidenced by §10-201 of the code, which provides that the company prepares and publish the Annotated Code of Maryland and that this version is considered evidence of the law in all state courts. Since 2002, West also has published an official version of the state's statutes, which is similarly addressed in §10-201 of the code.

The Maryland General Assembly provides its own search engine for the code in addition to the LexisNexis site, although the assembly's search features are decidedly more primitive. The Annotated Code of Maryland is a copyrighted publication of LexisNexis—something the assembly's site makes clear.

The unannotated content provided in the state's version is called the "Statutes database," which the site says "is the actual words of the codified law as enacted by the Maryland General Assembly." The state version does not include any of Michie's copyrighted material, such as its index, catch lines, history, titles or annotations, making the site more difficult to navigate and less complete.

MASSACHUSETTS | NOT OFFICIAL

The Massachusetts legislature provides access to the state's statutes online in a searchable database format; however, the content is not official. This is explicit in a notice on the website, which states, "This is NOT the official version of the General Laws of Massachusetts." The notice also provides that, while reasonable efforts have been made to ensure the accuracy of the data provided, users should not rely on the information without first checking the Official Edition of the General Laws of Massachusetts, which is the official printed version of the laws.

Most states provide a general waiver of warranty that limits the liability of the state with respect to the accuracy of its online content.

MICHIGAN | NOT OFFICIAL

The Michigan Legislature's website provides free access to the state's statutes, but the content is not official. The site has a disclaimer explicitly stating the information is not intended to replace the official version, although it does not say what version is official. The disclaimer also states the legislature does not warrant the information.

According to staff, while the online version is intended to be an aid to the public and does not replace the official version (the print version), measures are taken to ensure the integrity, accuracy and accessibility of the content provided.

MINNESOTA | NOT OFFICIAL

The Office of the Revisor in Minnesota provides access to an unofficial version of the state's statutes. A disclaimer on the site explicitly states the only official version of the Minnesota Statutes is the printed version published by the Office of the Revisor of Statutes. The disclaimer also says the Revisor does not warrant the material and it is presented as is, but the material is as accurate and timely as possible.

The Revisor's office is required to publish the laws as soon as possible after the session has adjourned, as evidence by 3C.06 of the Laws of Minnesota. The print version is "prima facie" evidence of the law in all courts and proceedings and must include a "certificate of correctness" issued by the Revisor to be official.

MISSISSIPPI | OFFICIAL

Mississippi's secretary of state provides a link to the official version of the Unannotated Mississippi Code, which is provided free to the public and is maintained on a separate site by Michie's Legal Resources (LexisNexis). The site states that LexisNexis is the official publisher of the Mississippi Code. The site also says official print versions of the statutes may be purchased "for the cost of printing" and copies are available to the public at state law libraries.

MISSOURI | NOT OFFICIAL

Missouri provides online access to its statutes, but they are not official. Although the site does not contain any disclaimers, staff at the legislature's law library confirms the only official version of the Missouri Revised Statutes is the print version. In addition, staff reports the state is moving closer to pro-

ducing the statutes in an electronic version only, having printed only a supplement to the full statutes in 2010. The state has no definite plans to make the electronic version official. The Revisor of Statutes must certify any edition of the statutes and only printed material is referenced in the statutes, as evidenced by section 3.090 of the Missouri Revised Statutes.

MONTANA | NOT OFFICIAL

A link on the Montana Legislature's website includes a link to an unofficial version of the Montana Code Annotated. The site provides a disclaimer that states the online version is provided as a research tool only, and "in case of inconsistencies resulting from omissions or other errors, the printed version will prevail." Legislative staff indicated this online version is not official and the only official source is the printed Montana Code Annotated.

NEBRASKA | NOT OFFICIAL

The Nebraska Legislature provides online access to the state's statutes, but the content is not official. A disclaimer on the site provides evidence that the content is not official and that the material is not warranted by the legislature. Section 49-767 of the Revised Statutes of Nebraska states the official version of the Nebraska statutes "shall be the supplements and reissued volumes as published by the Revisor of Statutes." Furthermore, Section 84-1228 of the statutes outlines the requirements for electronic records that constitute the permanent record, in which the Revised Statutes are not mentioned (either within the section or in the definitions section) as a publication to which the statute applies.

NEVADA | NOT OFFICIAL

The Nevada Legislature provides online access to the state's statutes, but these are not official. A disclaimer states the information "is prepared as an informational service only and should not be relied upon as an official

record of action. For official records, please refer to the printed version of the appropriate official publication, which may be obtained from Legislative Publications." The Official Nevada Revised Statutes are available for purchase from the state website and are printed by the Legislative Counsel.

Section 220.170 of the statutes addresses the official publication and certification of the Nevada Revised Statutes, and states the master copy must be printed, bound and certified by the director of the Statute Revision Commission.

NEW HAMPSHIRE | NOT OFFICIAL

The New Hampshire state government website provides an electronic version of the New Hampshire Revised Statutes, but the site clearly states the content is not official. A bold disclaimer at the top of the page indicates the content, although believed to be accurate, is provided for informational purposes only. The disclaimer also states "neither the Office of Legislative Services nor West Publishing, the official publisher of the state statutes, monitors the content of this site." Users of the site are encouraged to consult the bound volumes and supplements of the New Hampshire Revised Statutes Annotated, published by West.

NEW JERSEY | NOT OFFICIAL

The New Jersey Legislature provides access to the state's statutes online, but they are not official. The website is ambiguous as to the official status of its content at best and could be considered contradictory. On the main statute page, a cautionary note states that the database is unannotated—and thus may be unreliable—and users should refer to "applicable statute source law," but does not explicitly state they are unofficial.

The help section of the site, however, provides a definition of the New Jersey Statutes as "the compilation of law that is the most current official text of the permanent and general statutes of New Jersey available without charge to the public pursuant to P.L. 1995, c. 319 (C. 52:11-78)." The site provides a link in the definition that jumps directly to the legislature's version. The mention of "official" in this definition appears to indicate the statutes may be official, which is contradictory to both additional information on the site and the belief of interviewed staff.

According to the legislature's law library staff, the statutes provided on the legislature's page are not official and the printed text published by West—the New Jersey Statutes Annotated—is the only official version.

NEW MEXICO | OFFICIAL

The New Mexico Legislature provides a link to an official electronic version of the statutes. The electronic version is provided through a service contracted to the company Conway Greene provides the electronic version and although the website includes a disclaimer clearly stating the content is not official,

Many state websites provide a disclaimer regarding the official nature of its content, although the clarity of the disclaimers and the manner in which the disclaimers are displayed varies significantly.

A

interviewed staff said the New Mexico Compilation Commission considers this information official, pursuant to New Mexico Statutes Section 12-1-7. This statute provides that once certified by the New Mexico Compilation Commission, printed and electronic copies of the statutes are recognized as official. Because the commission certified this version of the statutes, they are therefore official.

NEW YORK | NOT OFFICIAL

The New York State Legislature provides access to its statutes online, but they are not official. New York actually has no official edition of its statutes, which consist of consolidated and unconsolidated laws, both of which are available on the legislature's website. Legislative staff members confirmed unofficial print versions of the statutes are available, including McKinney's Consolidated Laws of New York Annotated, the New York Consolidated Laws Service and Gould's New York Consolidated Laws. The website makes no mention as to whether its content is official or unofficial, nor provides any waiver of liability or warranty.

NORTH CAROLINA | NOT OFFICIAL

The North Carolina General Assembly's website provides public access to the state's statutes, but the version is not official. The site provides very clear and prominently placed disclaimers as to the unofficial status of the statutes. A sidebar containing the heading "Not Official," states that, "while every effort was made to ensure the accuracy and completeness of the statutes available on the North Carolina General Assembly's web site, the North Carolina General Assembly will not be responsible for any errors or omissions."

An additional section of the site states its purpose as a "starting point" for research and the information provided is not intended to replace any official source. It also states the information is presented "as is" and does not warrant the material.

The official version of the North Carolina General Statutes is available in print only and is published by Lexis Law Publishing. An unofficial version of the statutes is also published by West Publishing.

NORTH DAKOTA | NOT OFFICIAL

The North Dakota Legislative Assembly provides online access to its statutes on its website, but this content is not official. The site includes numerous and obvious warnings about its contents, including a disclaimer that begins with "WARNING!!!" The disclaimers mention the North Dakota Century Code on the website may or may not contain currently applicable law. It further states the North Dakota Century Code on the site comes from a bill-drafting database used by the Legislative Council and it may vary from the official version, which is published by LexisNexis.

Another disclaimer says, "although (the site tries) to keep information on the Legislative Branch

Nearly all states maintain a publishing contract with LexisNexis and/or West Publishing.

website up to date and accurate, (it does) not warrant the accuracy, reliability or timeliness of any information available from this site, nor endorse any content, viewpoint, product or service linked from this site.

Any person that relies on any information obtained from this site does so at that person's own risk." The North Dakota Century Code print version is the only official version of the state's statutes.

OHIO | NOT OFFICIAL

According to general assembly staff, the state of Ohio entered into a contract with Lawwriter (Case-maker) in 2007 to be the exclusive web publisher of the Ohio Revised Code. Although the state entered into an exclusive contract with Lawriter, the material published is not considered official. The general assembly's website provides a link to the Lawriter site, where the public can access the statutes free of charge. It includes no mention of the unofficial status of the statutes on Lawriter, but a disclaimer on the general assembly's site makes clear that the only official publication is the Laws of Ohio.

The Laws of Ohio are a publication of the secretary of state's office and are the only recognized version of the enactments of the general assembly. The state, therefore, has no official version of the Ohio Revised Code, either in print or electronic form, and the code is "only a reference and not the official record."

OKLAHOMA | NOT OFFICIAL

The Oklahoma Legislature provides access to the state's statutes on its website, but it is not an unofficial version. The website features a disclaimer stating the resources are not intended to replace any official source and are presented "as is" without warranties regarding the content. The website encourages users to refer to the printed version of the Oklahoma Statutes, which is the only official version. The official publisher of the Oklahoma Statutes is Thompson West. West is explicitly granted rights to publication in the statutes themselves, Chapter 75 section 171.

OREGON | NOT OFFICIAL

The Oregon Legislative Assembly provides access to the Oregon Revised Statutes online through its website, but they are not official. A disclaimer states the information was produced from material provided by the Legislative Counsel Committee of the Oregon Legislative Assembly and that the official record copy is the

Seven states contract with LexisNexis to provide free online access to their statutes through programs called LexisNexis Total Solutions or Michie's Legal Resources, four of which are official versions.

printed published copy of the Oregon Revised Statutes. The disclaimer explicitly states, "the text in the database is not the official text of Oregon law."

In addition to this disclaimer, the site says the material is provided without warranty and places the duty for verifying the content on the user. The only official and court-admissible version of the Oregon's statutes is the print version.

PENNSYLVANIA | NOT OFFICIAL

Users can access Pennsylvania's statutes online in two ways, both of which are linked from the general assembly's website and neither of which are official. The first option is a searchable database located directly on the legislature's site that comes with a clear disclaimer the content "is not intended to replace official versions." The disclaimer also says information is provided as "an information service only" and "although every reasonable effort is made to assure accuracy, information available on this site is presented AS IS without warranty, either expressed or implied, as to its accuracy, timeliness or completeness." The site does not direct users to the official version of the statutes.

A second option to access the state's statutes is a portal to a site maintained by West Publishing. The West site states that it "provides free access to both the consolidated and unconsolidated Purdon's Pennsylvania Statutes and Constitution, as compiled and maintained by the editorial staff of Thomson/West, and made available here in an unannotated version under agreement with the Pennsylvania Legislative Reference Bureau." A legal notice on the West site clearly states its content (named Purdon's Pennsylvania Statutes) is not official and the only official publication is the Pennsylvania Consolidated Statutes.

RHODE ISLAND | NOT OFFICIAL

The Rhode Island General Assembly provides access to the state's statutes, but the content is not official. The site provides several disclaimers, the first of which clearly states the content is not official and refers users to the print version. A second disclaimer is similar, but also states the general assembly does not warrant the information. According to legislative staff, Rhode Island law proscribes a certification procedure for its statutes and thus far, that certification process has only been applied to print materials.

SOUTH CAROLINA | NOT OFFICIAL

The South Carolina Legislative Council offers online access to the unannotated South Carolina Code of Laws, but the content is not official. A disclaimer explicitly states the content provided is unofficial and only the current published volumes of the South Carolina Code of Laws Annotated are the official version. West publishes this official annotated version.

SOUTH DAKOTA | NOT OFFICIAL

The South Dakota Legislature provides access to statutes online through its website, but that content is not official. No disclaimers on the state's website mention the official or unofficial nature of its contents, but South Dakota Codified Laws section 2-26-17 states the print version of the code is the only official version, which is published by West pursuant to section 2-16-7.1. The South Dakota Code is copyrighted.

TENNESSEE | NOT OFFICIAL

The General Assembly provides a link to an online version of Tennessee statutes, which is hosted by Michie's Legal Resources (LexisNexis). No disclaimers indicate whether the content provided by Michie's is official. State statutes indicate some conflict over which version of the statutes can be considered official. Section 1-1-111(b) of the Tennessee Code indicates the only official version of the code is the print version. However, section 1-1-105 also discusses the official publication of the code, including an electronic version.

Staff members did not provide an opinion regarding a resolution of this conflict, but said most consider the more specific rule (1-1-111) addresses the official status of the code, therefore indicating the print version is the only official version. Furthermore, when 1-1-105 was written, legislators were not contemplating online access to the statutes when using the term "electronic," but rather were addressing the electronic archiving of those statutes.

TEXAS | NOT OFFICIAL

The Texas Legislature provides public access to its statutes through its website, but it is not the official version. A disclaimer on the site only addresses the site publisher's warranty of the content—not its official or unofficial status—stating "the Texas Legislative Council offers the Texas Statutes to the public 'as is.'" It makes no warranty as to the accuracy of the data, and users rely on the data entirely at their own risk. Although the disclaimers on the site do not address the official status of its contents, legislative staff confirmed the content is not official. West publishes an unofficial version of the state's statutes under the title Vernon's Texas Civil Statutes.

UTAH | OFFICIAL

The Utah State Legislature's website provides public access to the state's statutes and the content is considered official, staff members said. The website provides a lengthy and thorough general disclaimer as to warranty and liability, but does not directly address the issue of official status. In addition, the site does not mention the official print version of the state's statutes. Both West and LexisNexis publish unofficial, annotated versions of the statutes.

VERMONT | OFFICIAL

The Vermont General Assembly provides free access to both an official and unofficial version of the Vermont statutes through its website. The site provides access to the state's statute database, with a disclaimer that states, "The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated, provided as a convenience. It has NOT been edited for publication and is not in any way official or authoritative." The state, however, has contracted with Michie's Legal Resources (part of LexisNexis) in a similar manner to other states, to provide free access to the official version of the Vermont Statutes Annotated. The official status of the LexisNexis version is clearly stated on the legislature's website, with a link to that version.

VIRGINIA | NOT OFFICIAL

The Virginia General Assembly offers online access to the Code of Virginia on its website, but it is not an official version. The site does not provide an explicit disclaimer as to the unofficial status of its content, although it does state the version of the state's administrative code available on its site is official. General assembly staff confirmed the code provided online is not official and the only official code recognized by the state's courts is the print version published by LexisNexis, Michie's Code of Virginia.

WASHINGTON | NOT OFFICIAL

The Code Reviser's Office provides public access to the Revised Code of Washington through the Washington State Legislature website, but this content is not official. According to Code Reviser Office staff, the only official source for the state's statutes is the print version, which is published by the Statute Law Committee and the Code Reviser. The legislature's website does not address the official status of its contents directly, but provides a disclaimer as to the accuracy of the material.

WEST VIRGINIA | NOT OFFICIAL

The West Virginia Legislature provides access to state statutes, but the content is not official. The

website provides a disclaimer under "website terms of use," stating that the State of West Virginia or the legislature does not warrant the material provided and all of the content provided on the site are not the official versions. Users of the site are encouraged to verify online content with the official printed versions of the statutes.

WISCONSIN | NOT OFFICIAL

The Wisconsin Legislative Reference Bureau provides online access to the state's statutes through its website, but its contents are not official. Although the website's header states that the Legislative Reference Bureau is the "official publisher of the Wisconsin Statutes," disclaimers on the site indicate the statutes published there are not official.

In a section titled "about this Infobase," the site explains the Wisconsin Statutes and Annotations reproduced on the website are "derived from the computer files used by the Legislative Reference Bureau to produce the official Wisconsin Statutes and Annotations and are updated approximately every three months to reflect the changes made by legislation enacted during the legislative session and to editorial notes and annotations." While this statement would seem to imply the online version of the statutes is official, the disclaimer goes on to say that electronic versions of the statutes cannot be certified and are not official. Only print versions of the statutes can be certified and thus made official, pursuant to section 35.18 of the Wisconsin Statutes.

The Wisconsin Statutes and Annotations may be purchased from the Wisconsin Department of Administration. WisLaw, an electronic version of the Statutes and Annotations and other Wisconsin law on CD-ROM, may be licensed from the same department.

WYOMING | NOT OFFICIAL

Wyoming's state statutes are available electronically through the legislature's website, but this content is not official. Although no disclaimer directly addresses the issue, staff at the Legislative Service Office confirm the online material is not official. The staff member interviewed explained the online version of the statutes is created from the same material used to create the official version—printed by LexisNexis—and is likely identical. The Legislative Service Office also is responsible for supplying statute text to LexisNexis for publication as the official print version of the Wyoming Statutes Annotated.

According to a notice on the site, Matthew Bender and Co. —part of LexisNexis—has exclusive rights to publish and distribute the Wyoming Statutes Annotated. In addition, the site states that "The On-Line version of the Wyoming Statutes Annotated is provided for non-commercial use pursuant to a contractual arrangement with LexisNexis."



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State legislative salaries range from \$95,291 annually in California to only \$200 annually in New Hampshire. (*The Book of the States, 2011 Table 3.9*)

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By Jennifer Burnett | Wednesday, September 21, 2011 at 4:28 pm



Download the entire report, including state profiles.

As state leaders begin to realize and utilize the incredible potential of technology to promote transparency, encourage citizen participation and bring real-time information to their constituents, one area may have been overlooked. Every state provides public access to their statutory material online, but only seven states—Arkansas, Delaware, Maryland, Mississippi, New Mexico, Utah and Vermont—provide access to official versions of their statutes online. This distinction may seem academic or even trivial, but it opens the door to a number of questions that go far beyond simply whether or not a resource has an official label.

Has the information online been altered—intentionally or not—from its original form? Who is responsible for mistakes? How often is it updated? Is the information secure? If the placement of a resource online is not officially mandated or approved by a statute or rule, its reliability and accuracy are difficult to gauge.

As state leaders have moved quickly to provide information electronically to the public, they may have overlooked the process and manner in which that information is conveyed online. Several states, such as Delaware, have recognized this issue and met it head-on, establishing procedures and rules that clarify the status of their statutory material. The Uniform Law Commission recently approved The Uniform Electronic Legal Material Act, which provides guidance for states as they move to provide the most reliable information possible to the public through electronic means.

Key Findings**All states offer access to their statutes online.**

Every state provides some form of public access to its statutes online, either by directly hosting a database of the statutes on the official state website or by providing a link on its website to content provided on a third-party's site.

A majority of states do not provide free public access to official versions of their state statutes online.

Seven states—Arkansas, Delaware, Maryland, Mississippi, New Mexico, Utah and Vermont—provide access to official versions of their statutes online.

The manner in which state websites deliver access to their statutes — official or otherwise — varies significantly.

Some state websites offer sophisticated tools to search their statutes, while other states provide more rudimentary tools.

Many state websites offer a disclaimer regarding their online content.

Most states provide a general waiver of warranty that limits the liability of the state with respect to the accuracy of its online content. Many state websites provide a disclaimer regarding the official nature of its content, although the clarity of the disclaimers and the manner in which the disclaimers are displayed varies significantly.

Most states maintain a contract with LexisNexis and/or West Publishing.

Most states publish official or unofficial print versions of their statutes through LexisNexis and/or West, but a user generally must pay for access to those statutes. Seven states—Arkansas, Colorado, Georgia, Maryland, Mississippi, Tennessee and Vermont—contract with LexisNexis to provide free online access to their statutes through programs called LexisNexis Total Solutions or Michie's Legal Resources. Four of the seven states that provide online access to their official statutes do so through this service.

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STATE PROFILES

● NOT OFFICIAL
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Background

The reason public access to government information matters is simple, Associate U.S. Attorney General Tom Perrelli told an audience of federal workers in March: "You've often heard it said that sunlight is the best disinfectant. And the recognition is that, for us to do better, it's critically important for the public to know what we're doing."

At the most basic level, free and open public access to the law that governs this country—federal and state—is necessary to create the transparency that is fundamental to a functional participatory democracy. Furthermore, as a democratic society, the citizens of this country are the driving force behind all its institutions, including those institutions that create and compose the law. The court eloquently relays this concept in *State of Georgia v. Harrison Co.*, saying, "the citizens are the authors of the law, and therefore its owners, regardless of who actually drafts the provisions, because the law derives its authority from the consent of the public, expressed through the democratic process..."³ It logically follows that, as the "owners" of the law, citizens should have unfettered access to that which they own.

In the early 1960s, a team of University of Pittsburgh employees under the leadership of professor John Harty successfully converted the public health statutes of all 50 states into a digital format, using punched cards and magnetic tape.⁴ Over the past 50 years the world has exploded into a more technologically advanced society than the one Harty knew. According to a recent study by the Nielson Co., more than 80 percent of Americans now have a computer in their homes, and of those, almost 92 percent have Internet access.⁵ With this explosion of technology comes the unprecedented potential to offer the public free and open access to government and legal material through electronic means.

But state governments provide access to the most basic building blocks of legal information—state laws—in different ways. In 2003, the American Association of Law Libraries published the *State-by-State Report on Permanent Public Access to Electronic Government Information*,⁶ which strived to identify the steps state governments were taking to provide the public access to government information online, particularly primary legal materials.

Three years later, the association wrote a follow-up to that report—the *State-by-State Report on Authentication of Online Legal Resources*. The purpose of this report moved beyond merely identifying which states provided access—permanent or otherwise—to electronic primary law resources⁷ and sought to determine how trustworthy those electronic legal resources were by both traditional authentication definitions and emerging definitions related to online content.

Both the 2003 and 2006 reports found that while some states provided access to official⁸ resources online, those resources were not trustworthy. "A significant number of the state online legal resources are official but none are authenticated or afford ready authentication by standard methods. State online primary legal resources are therefore not sufficiently trustworthy," the report said.

Following up on the findings made by American Association of Law Libraries, The Council of State Governments surveyed the legislative websites of the 50 states and interviewed key staff members for clarification in an effort to identify the official status of primary legal material provided online by states as of July 2011. A majority of states do not provide official online resources. Identification of authentication measures was beyond the scope of this survey. Furthermore, this survey focused solely on the official status of state statutes online, rather than all of the states' primary legal materials.

Moving Forward

The Uniform Electronic Legal Material Act, for which the Uniform Law Commission gave final approval in July 2011, is intended to provide, according to the commission, "a consistent, outcomes-based approach to solving (the problem of non-uniform state electronic legal

materials) that can be adopted in every state and territory."

The act provides a clear way in which states can identify the official publisher of a given government record, including state statutory material. The act also provides comprehensive guidance in establishing the key components of an authenticated and official electronic record system. The content of the model act can be found [here](#).



Download the entire report, including state profiles.

References:

1 Black's Law Dictionary provides us with a working definition for an "official" legal resource, defining the term as "an official version of regulatory materials, statutes, session laws, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be."

2 Carrie Johnson, [Has Obama Lived Up to His Pledge on Transparency?](#) National Public Radio, (March 15, 2011).

3 State of Georgia v Harrison Co, 548 F Supp 110, 114 (ND Ga 1982)

4 William G. Harrington, A Brief History of Computer-Assisted Legal Research, 77 LAW LIBR. J. 543, 544 (1985).

5 An Overview of Home Internet Access in the U.S, The Nielson Company, (December 2008).

6 Richard J. Matthews, et al., State-by-State Report on Permanent Public Access to Electronic Government Information, The American Association of Law Libraries, (2003).

7 The report targeted six sources of law: state administrative codes and registers, state statutes and session laws, and state high and intermediate appellate court opinions.

8 The AALL report uses Black's Law Dictionary to provide a definition of an official legal resource, defining the term as "an official version of regulatory materials, statutes, session laws, or court opinions is one that has been governmentally mandated or approved by statute or rule. It might be produced by the government, but does not have to be."

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Meet My Trustworthy Friend UELMA

July 28th, 2011 by [Butch Lazorchak](#)

NCCUSL. If pronounced a certain way (think “nah-kooz-ull”) it sounds like the latest toy fad. But get used to the acronym because the organization behind it is responsible for one of the most important pieces of digital preservation legislation in the past ten years.



Uniform Law Commission

The National Conference of Commissioners on Uniform State Laws

NCCUSL stands for the National Conference of Commissioners on Uniform State Laws, better known as the Uniform Law Commission. The ULC consists of commissioners appointed by each state to discuss and debate in which areas of law there should be uniformity among the states and territories and to draft acts accordingly.

As you can imagine, there are numerous benefits to developing uniform laws, and the ULC has drafted more than 200 uniform laws on various subjects.

But what does the ULC have to do with digital preservation? Well, ensuring that any arbitrary digital data is authentic and reliable has been a long-standing concern for digital preservation professionals (for a variety of background perspectives on the research challenges of authenticity and reliability of digital materials, see [here](#), [here](#) or [here](#)), with the legal community an especially interested party.



Authenticity by patricklanigan on Flickr

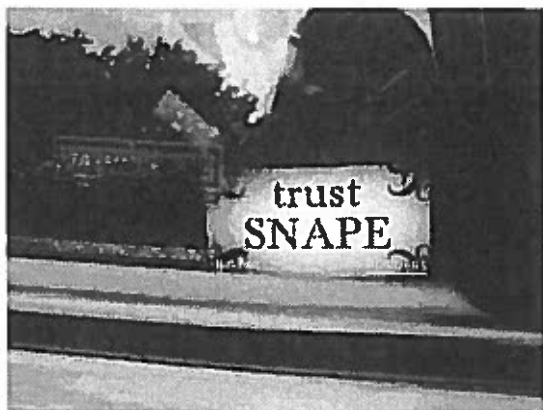
In 2003, the American Association of Law Libraries published the State-by-State Report on Permanent Public Access to Electronic Government Information, the goal of which was to research what state governments were doing to meet the enormous challenges of ensuring permanency and public accessibility of government information on the web.

In March of 2007 they followed this up with the State-By-State Report on Authentication of Online Legal Resources (PDF), designed to report on the relative trustworthiness of state-level primary legal resources on the web.

The 2007 report didn't mince words:

A significant number of the state online legal resources are official but none are authenticated or afford ready authentication by standard methods. State online primary legal resources are therefore not sufficiently trustworthy.

If you can't authenticate digital resources you can't trust them. And if organizations (i.e. lawyers) can't “trust” electronic documents, they're going to insist on paper documents instead, building a chain of distrust that works against the creation, use and (eventually) the preservation of digital information.



trust snake by mararie on Flickr

What is needed are legal statements that vouch for the inherent authenticity of digital information and provide a general outline on processes for ensuring they remain trusted over time.

The AALL activities, as well as concurrent activities taking place at the [Government Printing Office](#) and [elsewhere](#) spearheaded the impetus towards [settling the issue through a uniform act](#) (PDF). While states have moved rapidly into the electronic world, the establishment of public policy regarding the authentication and preservation of these online legal materials has lagged behind. The adoption of a uniform law would harmonize standards for acceptance of electronic legal material across jurisdictional boundaries.

The ULC took up the issue of a possible uniform law on the authentication of online legal materials in early 2008, with representatives from NDIIPP's [Model Technological and Social Architecture for the Preservation of State Government Digital Information project](#) actively participating in the working group process from the beginning.

It wasn't easy, but by focusing on an outcomes-based, technology neutral approach the ULC was able to bring the Uniform Electronic Legal Material Act to [approval](#) at the ULC annual meeting this month.

This is huge! While not proscribing any particular preservation or authentication method or technology, the law establishes a digital preservation framework for official electronic legal materials moving forward.

If legal material defined by the act is published only electronically it must be designated "official" and meet the requirements of the act. If there is a print version of the legal material, an official publisher may designate the online version "official," but the requirements of the act to authenticate, preserve, and provide access must be met. Once designated "official," the Act requires the legal materials be:

- Authenticated, by providing a method to determine that it is unaltered;
- Preserved, either in electronic or print form; and
- Accessible, for use by the public on a permanent basis.

And once the law is implemented, entities that previously had been neglectful of their authenticity and preservation responsibilities will be required to address them, jump-starting digital preservation operations nationwide, with the possible emergence of common practices that will enable increased interoperability of digital information and shared methods for preservation across the country.

People are often slow to do something they don't want to do unless a law makes them do it. And now there's a law that will make them do it.

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